

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 23-24164-CIV-ALTONAGA/Reid

BAKUL BADWAL,

Plaintiff,

v.

ALO, LLC,

Defendant.

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ORDER

THIS CAUSE came before the Court on Defendant, Alo, LLC's Request for Judicial Notice in Support of Motion to Dismiss, or in the Alternative, Transfer Venue [ECF No. 41], filed on April 1, 2024. The Court previously denied the Motion due to Defendant's counsel's failure to confer in accordance with Local Rule 7.1(a)(3). (*See* Apr. 1, 2024 Order [ECF No. 40]).

Counsel for Defendant has again failed to sufficiently confer with Plaintiff, Bakul Badwal, in accordance with Local Rule 7.1(a)(3). The Motion states:

[O]n April 1, 2024, within minutes of the Court's order denying Defendant's previously filed Request for Judicial Notice (ECF 37, 40), Defendant's counsel e-mailed Plaintiff's counsel to inquire whether Plaintiff opposes the Request. Defendant's counsel followed up with calls to both of Plaintiff's lead counsel, but Mr. Eisenband's listed phone number was inoperative and Mr. Hiraldo's voice mailbox was full. As of the time of this filing, over 6 hours after the original e-mail, Plaintiff's counsel has not responded.

(Mot. 6–7 (alteration added)).

To “confer” as described in Local Rule 7.1(a)(3), “a movant must have a give-and-take exchange with opposing counsel. Sending an email and demanding an immediate or near-immediate response and then filing a motion before having an actual substantive discussion with opposing counsel does not amount to a conference or consultation. Instead, it is a one-way missive.” *Royal Bahamian Ass’n, Inc. v. QBE Ins. Corp.*, 744 F. Supp. 2d 1297, 1299 n.2 (S.D.


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Fla. 2010) (citations omitted). By filing the Motion before speaking with Plaintiff's counsel or, at the very least, providing opposing counsel a reasonable time to respond so the parties can in good faith narrow or resolve the issues, Defendant has not complied with Local Rule 7.1(a)(3).

Accordingly, it is

ORDERED AND ADJUDGED that Defendant, Defendant, Alo, LLC's Request for Judicial Notice in Support of Motion to Dismiss, or in the Alternative, Transfer [ECF No. 40] is once more **DENIED** without prejudice.

DONE AND ORDERED in Miami, Florida, this 2nd day of April, 2024.



CECILIA M. ALTONAGA
CHIEF UNITED STATES DISTRICT JUDGE

cc: counsel of record